IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1732 OF 1991

Shri.Ganu Bhairu Patil,
deceased through his legal heirs :-

1. Shripati Ganu Patil

2. Shri.Gopala Ganu Patil

Both residents of Surupali,
Taluka Kagal, Dist. Kolhapur.

3. Sau.Parubai w/o. shamrao Palkar
resident of Malge Budruk,
Taluka Kagal.

4. Sau.Sharabai Dhondiram Warke,
resident of Surupali,
Taluka Kagal.

5. Sau.Chaandrabai Ramchandra Khatkar
resident of Bhadgaon,
Taluka Kagal, Dist. Kolhapur.

6. Smt.Krishnabai w/o. Ganu Patil
of Surupali, Taluka Kagal,
Dist. Kolhapur. **..Petitioners**

Versus

1. Smt.Mandakini w/o. Balwant Kulkarni,
"Ganga Niwas", 3/E, Katkar Mal,
Shivaji Vidyapeeth Road,
Kolhapur.

2. Shankar Ganpati More,
resident of Surupali,
Taluka Kagal.

3. Shri.Anandrao Govindrao More
of Surupali, Taluka Kagal,
District Kolhapur. **..Respondents**

Mr.S.V.Sadavarte for the Petitioners.
Mr.D.K.Ghaisas for respondent No.1.

CORAM : DR.S.RADHAKRISHNAN,J.

DATE : 8TH SEPTEMBER, 2006.

ORAL JUDGMENT :-

1. Heard the learned Counsel for the Petitioners and the learned Counsel for Respondent No.1. The

Petitioners are the legal heirs of the original tenants and Respondent No.1 is widow-landlady. It appears that the agricultural lands were restored to Respondent-widow landlady as per the provisions of section 33B of the Bombay Tenancy and Agricultural Lands Act, 1948 (for the sake of brevity, hereinafter referred as the "said Act"). Thereafter, it appears that the present Petitioners had filed an application under section 37 of the said Act for restoration of the land on the ground that the Respondent-widow landlady was not cultivating the land personally, as defined under section 2(6) of the said Act.

2. The learned Counsel for the Petitioners Mr.Sadavarte fairly pointed out that the Hon'ble Supreme Court in the judgment of **Kisan Yashwant Dhirade Vs. Sonabai Bappu Lohar & Others, 2002(1) Bom.C.R. 562** has clearly interpreted the word "to cultivate personally", as per section 2(6) of the said Act to mean that in case of a widow or a minor, or a person who is subject to physical or mental disability, or a serving member of the armed forces shall be deemed to cultivate the land personally if such land is cultivated by servants, or by hired labour, or through tenants. The Petitioners-tenant had succeeded before the Court of Tenancy, Awal Karkun, Kagal. However, the Appellate Authority as well as the Revisional Authority being the Maharashtra Revenue Tribunal had held in favour of the Respondent-widow landlady holding that she is entitled to cultivate through a tenant.

3. In view of the aforesaid very categoric interpretation of the Hon’ble Supreme Court, nothing further survives in the above Petition. In view thereof, Rule stands discharged.

(DR.S.RADHAKRISHNAN,J.)